

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM THE PUBLIC SERVICE COMMISSION OF SOUTH
CAROLINA

Appellate Case No. 2019-001900

Duke Energy Carolinas, LLC,

Appellant-Respondent,

v.

Office of Regulatory Staff, Hasala
Dharmawardena, CMC Recycling,
Cypress Creek Renewables, LLC, SC
Department of Consumer Affairs, Sierra
Club, South Carolina Coastal
Conservation League, South Carolina
Energy Users Committee, South Carolina
Solar Business Alliance, Inc., the South
Carolina State Conference of the
National Association for the
Advancement of Colored People, Upstate
Forever, Vote Solar, and Walmart, Inc.,

Respondents,

Of whom South Carolina Energy Users
Committee is

Respondent-Appellant.

Appellate Case No. 2019-001904

Duke Energy Progress, LLC,

Appellant-Respondent,

v.

Office of Regulatory Staff, Nucor Steel-
South Carolina, Cypress Creek
Renewables, LLC, SC Department of
Consumer Affairs, Sierra Club, South
Carolina Coastal Conservation League,
South Carolina Energy Users Committee,
South Carolina Solar Business Alliance,

Incorporated, The South Carolina State
Conference of the National Association
for the Advancement of Colored People,
Upstate Forever, Vote Solar, and
Walmart, Inc.,

Respondents,

**MOTION TO EXTEND BRIEFING SCHEDULE AND SHORTEN RESPONSE TIME
TO MOTION**

Respondent South Carolina Office of Regulatory Staff (“ORS”), with the consent of Appellant-Respondent Duke Energy Carolinas, LLC and Duke Energy Progress, LLC (collectively, referred to herein as “Duke”) and Respondent-Appellant South Carolina Energy Users Committee (“SCEUC”), hereby moves to extend the briefing schedule in these consolidated appeals and shorten the response time to this Motion.

Duke, ORS, and SCEUC filed Notices of Appeal in Appellate Case Number 2019-001900. Duke and ORS filed Notices of Appeal in Appellate Case Number 2019-001904. By Order dated February 20, 2020, the Court consolidated Appellate Case Numbers 2019-01900 and 2019-01904. By Order dated April 29, 2020, the Court granted ORS’s motion to withdraw its notices of appeal.

The current operative briefing schedule is that entered by the Court on February 20, 2020, which set deadlines of April 1, 2020, for the initial brief and designation of matter by an appellant; June 15, 2020, for any respondent’s brief and designation of matter; and July 22, 2020, for any reply brief and designation of matter by an appellant. This was the third briefing schedule set by the Court.

On March 20, 2020, the Court issued its initial Order Regarding Operation of the Appellate Courts During the Coronavirus Emergency. Subsection (l)(1) of the Order included a twenty-day

extension of deadlines for all Appellate Court filings due on or after the effective date of the Order.

Consistent with the March 20th Order, Duke and SCEUC filed their initial appellant briefs and designations of matter on April 21, 2020. Under the extension of the March 20th Order, initial respondent briefs were due on July 6, 2020.

On May 29, 2020, the Court issued an Amended Order Regarding Operation of the Appellate Courts During the Coronavirus Emergency. Among the amendments was a change to the extension granted in the March 20th Order. The May 29th Order limited the twenty-day automatic extension to Appellate Court filings due during the period of March 20, 2020, thru June 8, 2020. This provision of the May 29th Order caused the deadline for the initial respondent briefs to revert to June 15, 2020.

ORS respectfully now moves to extend the remaining deadlines set forth in the February 20th Briefing Schedule by twenty days. Prior to the May 29th Order, the parties had been operating under the impression that the twenty-day automatic extension granted in the March 20th Order applied to all deadlines in the February 20th Briefing Schedule. Further, applying the twenty-day extension to all deadlines maintained the time interval between deadlines for appellant and respondent briefs that existed in the February 20th Briefing Schedule. As mentioned in previous motions to extend the briefing schedule, the parties are dealing with two appeals involving complex issues, lengthy orders on appeal (92 total pages and 136 total pages), and lengthy transcripts (eight volumes and six volumes plus exhibits). If granted, the new deadlines will be as follows:

- (1) Any respondent's brief and designation of matter filed in response to the initial brief of an appellant shall be served and filed by July 6, 2020.¹

¹ This July 6th deadline accounts for July 5th being a Sunday. See S.C. App. Ct. R. 263(a).

- (2) Any reply brief and designation of matter by an appellant shall be served and filed by August 11, 2020.

All other deadlines will be as established in the South Carolina Appellate Court Rules. The parties also request that all deadlines be stayed pending resolution of this Motion.

Further, given this Motion is being filed June 1, 2020, and the deadline for respondent briefs is June 15, 2020, ORS respectfully requests that the usual ten-day timeframe for parties to file responses to the Motion under S.C. Appellate Rule 240(e) be shortened to five days. All Appellants consent to this Motion.

Respectfully submitted,

June 1, 2020

s/ Christopher M. Huber

Jeffrey M. Nelson (SC Bar No. 12973)
 Jenny R. Pittman (SC Bar No. 101913)
 C. Lessie Hammonds (SC Bar No. 15562)
 Andrew M. Bateman (SC Bar No. 101114)
 Alexander W. Knowles (SC Bar No. 103047)
 Christopher M. Huber (SC Bar No. 79857)
 South Carolina Office of Regulatory Staff
 1401 Main Street, Suite 900
 Columbia, SC 29201
 (803) 737-0800
jnelson@ors.sc.gov
jpittman@ors.sc.gov
lhammonds@ors.sc.gov
abatemen@ors.sc.gov
aknowles@ors.sc.gov
chuber@ors.sc.gov

Wallace K. Lightsey (SC Bar No. 6476)
 Wyche, P.A.
 200 East Camperdown Way
 Greenville, SC 29601-2972
 (864) 242-8207
wlightsey@wyche.com
 Attorneys for South Carolina Office of Regulatory Staff

WE SO CONSENT:

s/ Sarah P. Spruill with permission
Frank R. Ellerbe, III (SC Bar No. 1866)
Robert E. Stepp (SC Bar No. 5335)
Robinson Gray Stepp & Laffitte, LLC
P.O. Box 11449
Columbia, SC 29211
fellerbe@robinsongray.com
rstepp@robinsongray.com

Sarah P. Spruill (SC Bar No. 68337)
Haynsworth Sinkler Boyd, P.A.
ONE North Main Street, 2d Floor
Greenville, SC 29601
sspruill@hsblawfirm.com
Attorneys for Duke Energy Carolinas, LLC
and Duke Energy Progress, LLC

s/ Scott Elliott with permission
Scott Elliott (SC Bar No. 1872)
Elliott & Elliott, P.A.
1508 Lady Street
Columbia, SC 29201
selliott@elliottlaw.us
Attorneys for S.C. Energy Users Committee